Mayor, 67 N. Y. 21; *Commonwealth* v. *Hawkes*, 128 Mass. 528. A state officer is one who receives his authority under the laws of the state and performs some of the governmental functions of the state. *State ex rel.* v. *Valle*, 41 Mo. 29. *State ex rel.* v. *Bus*, 135 Mo. 325. A justice of the peace in a city constitutes a part of the judicial department of the state government and is a public officer. *People* v. *Ransom*, 88 Cal. 568. The nature of the duties of the officer determines his character as state or municipal. *People* v. *Hurlbut*, 24 Mich. 44; DILLON. MUN. CORP., § 58. We think with Spruance, J., who dissents, that the respondent was intended to be included by the terms of the amendment.

REAL PROPERTY—VENDOR'S LIEN NOTE—EFFECT OF TRANSFER.—A vendee's note was given in payment for land, *Held*, that a transfer of the note carried with it the vendor's lien. *Brandenburg* v. *Norwood* (Tex.), 66 S. W. 587. This follows the English precedent. *Rayne* v. *Baker*, 1 Giff. 241; though contrary to the decided weight of American authority. *Shall* v. *Briscoe*, 18 Ark. 142.

REAL PROPERTY—HOMESTEAD—WIDOW'S RIGHT TO.—A wife voluntarily lives apart from her husband in a different state, *Held*, she is not entitled to the homestead of her deceased husband. *Ullman* v. *Abbott* (Wyo.), 67 Pac. 467.

The authorities, however, are not harmonious. *Brown* v. *Brown*, 68 Mo. 388. But if driven away by the wrong of her husband, her homestead right continues. *Barker* v. *Dayton*, 28 Wis. 367. These same principles have been applied to dower cases. *Stanton* v. *Hitchcock*. 64 Mich. 316; *Sherrid* v. *Southwick*, 43 Mich. 515.

REAL PROPERTY—RIGHT TO IMPROVEMENTS—COLOR OF TITLE.—A deed was given in payment for liquors to be sold in violation of law, *Held*, not to constitute color of title which will entitle the grantee to the value of the improvements placed on the property by him during possession. *Lindt* v. *Uihlein* (Iowa), 89 N. W. Rep. 214.

The illegality of the transaction was the basis of the decision, for a void deed may constitute color of title. *Railway Co.* v. *Alfree*. 64 Ia. 504.

RES JUDICATA—SPECIFIC PERFORMANCE AFTER NOMINAL DAMAGES.—A and B entered into a contract with each other for a lease of telegraph lines. B broke the contract. A prosecuted to judgment for nominal damages at law, and now comes into equity for specific performance. Granted. The court states that a judgment for substantial damages might have acted as a bar. *Slaughter et al.* v. *Compagnie Francaise des Cables Telegraphiques* (Cir. Ct., S. D. N. Y.), 113 Fed. Rep. 1.

It would seem that no case involving the precise question has heretofore arisen. Nearly the converse has been decided. *Putnam* v. *Clark*, 34 N. J. E. 535, where an injunction issued to restrain a party from proceeding at law for the same matter after he had secured a decree in equity. And a question very similar to the one under discussion has been decided, but contrariwise (*Allis* v. *Davidson*), where a judgment at law was successfully set up as a bar to a suit for cancellation of a note and mortgage. And reformation has been refused after judgment at law. *Washburn* v. *Great Western Insurance Co.* 114 Mass. 175; *Metcalf* v. *Gilmore*, 63 N. H. 174; *Steinbach* v. *Insurance Co.* 77 N. Y. 498.

STATUTE OF LIMITATIONS—AMENDMENT OF DECLARATION—NEW CAUSE OF ACTION.—An action was begun on a contract to recover damages for breach thereof in failing to leave to plaintiff by will a child's portion, promised in consideration of plaintiff's rendering personal services. This action was defeated because the contract was oral and came within the Statute of Frauds. An amendment was made so as to declare on a quantum meruit, and the plea of limitations was interposed. *Held*, that the amendment added a new cause of action and that, as the period of limitations had elapsed before the amendment was made, the action could not be maintained and the plea of limitations was properly interposed, *Hamilton* v. *Thirston* (Md. 1902), 51 Atl. Rep. 42. A similar conclusion was reached in the case of *Lambert* v. *McKenzie* (Cal. 1901), 67 Pac. Rep. 6, where the complaint was so amended as to declare upon the negligence of the defendant.

This is the rule well established by the decisions generally. Where the amendment adds a new or different cause of action, the amendment is tantamount to the commencement of a new action and does not relate back to the time of filing the original declaration or complaint. Under such circumstances the statute of limitations may be pleaded. *State* v. *Green*, 4 Gill & J. (Md.) 381; *Harriott* v. *Wells*, 9 Bosw. (N. Y.) 631.

SALES—ENTIRE CONTRACT—RESCISSION.—Sale of 300 tons of iron, "cash payable on receipt of each 100 tons." Refusal by vendee to pay for first 100 tons until enough more should be